IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5154 OF 1993

The Municipal Corporation of
City of Pune, through the
Municipal Commissioner, Pune. .. Petitioner.

Vs

1. Raghunath Bapu Dudhane,
since deceased by his legal heirs
1A Shashikant Raghunath Dudhane
and ors. .. Respondents.

Mr.R.G.Ketkar, for the petitioner-Corporation.
Mr.P.M.Patil, AGP for the respondent-State.
Mr.A.M.Kulkarni h/f Mr A.A.Kumbhakoni, for the respondents.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE, JJ.
DATED : MARCH 20, 2006.

P.C:

1. In this petition under Article 226 of the Constitution, the petitioner-corporation has taken exception to the judgment and order rendered by the Additional Commissioner, Pune Division, Pune on 16.1.1989 in ULC Case No.1313/87. On remand, the competent authority passed a fresh order on 31.8.1990 and the said order was carried in revision before the State Government. The revision was allowed and, therefore, the land owners have made an application to the competent authority to return the land which was earlier declared as surplus. The said application came to be rejected on the ground that the clarifications were required from the Divisional Commissioner. The land owners, therefore, approached the State Government which directed the competent

authority to decide the application. This Court in writ Petition No.3054 of 1993 dealt with the same issue and held that the competent authority was required to consider the application of the land owners for resumption of the land declared surplus without any further clarification. Consequently, the land which is subject matter of this petition came to be restored to the land owners, they approached the petitioner-corporation with redevelopment plans which were duly approved and with the passage of time multi-storeyed structures have already come up thereof. Under these obtaining circumstances, even if this petition succeeds we cannot pass an order which could be implemented inasmuch as to resume the land to the municipal corporation, more so when in the constructed multi-storyed building third party interests have already been created.

2. We called upon the State Government and the corporation to find out a via media so that the corporation which had already paid the consideration for the subject land admeasuring about five acres and which is a public body, is not put to loss due to sheer negligence on the part of its officers to prosecute this petition diligently. Mr Patil, learned AGP, on taking instructions from the department of Urban Development, Government of Maharashtra, stated that as and when the petitioner-corporation approached

the State Government for exchange of land, the same has been considered depending upon the availability of the land in the same area or in comparable areas and the State Government is, therefore, not averse to consider any fresh proposal from the corporation. The subject land was located in Kothrud area which is one of the fast developing areas of the Pune city and the municipal corporation has a list of other appropriate lands, not in the same locality but in other localities like Dhanori.

3. We, therefore, grant four weeks time to the petitioner-municipal corporation to submit a proposal for alternative land within its territorial limits to the Principal Secretary, Ministry of Urban Development and the said proposal shall be considered by the State Government as expeditiously as possible and in any case within a period of three months from its receipt.

4. The petition is disposed in terms of the above direction, with no order as to costs.

5. Needless to mention, the amount already remitted by the corporation, shall be adjusted against the land to be allotted afresh.

(D.B.BHOSALE, J.) (B.H.MARLAPALLE,J.)